IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1625 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASHOKBHAI CHMAPARJBHAI VALA
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR AM PAREKH for the Petitioner
Mr Neeraj Soni, Assistant Government Pleader for respondents Nos.1 & 2
Respondent No.3 - Served

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 03/05/2007

ORAL JUDGMENT

Rule. Mr Neeraj Soni, learned Assistant Government Pleader waives service of Rule. At the request of the learned advocates for the

parties, the matter is taken up for final hearing today itself.

The petitioner has challenged order granting allotment of fair-price shop to respondent No.3 under the Scheme known as Pandit Din Dayal Grahak Bhandar Yojana. According to the petitioner, he obtained better percentage of marks than respondent No.3. In spite of that, the concerned authority has wrongly allotted the shop to respondent No.3.

I have heard Mr A.M. Parekh, learned advocate for the petitioner and Mr Neeraj Soni, learned Assistant Government Pleader for respondents Nos.1 and 2. It is the submission of Mr Parekh that earlier the petitioner had challenged the order of allotment before respondent No.1 by filing appeal. Respondent No.1 by order dated 4th August 2005 remanded the matter to respondent No.2 for his fresh consideration keeping in view Resolution dated 2nd August 2004. On perusal of the impugned order it clearly appears that both the candidates possessed the requisite criteria for becoming eligible to have the licence for fair-price shop. In fact, the petitioner possesses slightly higher percentage of marks than respondent No.3. In spite of that, the allotment has been made in favour of respondent No.3. No plausible explanation is coming forth why it is so done. It further appears that while doing so the relevant criteria for grant of allotment has also not been considered by respondent No.2. In view of the same, this order is required to be quashed and the matter is required to be remitted to him for his reconsideration and decision in accordance with the relevant factors including the circulars issued by the Government from time to time in this behalf. The result is, the order of the respondent No.2 dated 4.2.2005 and order passed by respondent No.1 dated 18.11.2006 in Appeal are quashed and set aside. The matter is remanded to respondent No.2 for his reconsideration. Respondent No.2 is directed to

consider the issue of allotment of shop after keeping in view all the relevant factors and the relevant circulars. The decision to be taken on or before 31st July 2007. The petition is, therefore, accordingly allowed. Rule is made absolute. No order as to costs.

(Akshay H Mehta, J.)

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